

The Gazette of India



EXTRAORDINARY PART II—Section 3 PUBLISHED BY AUTHORITY

No 154] NEW DELHI, WEDNESDAY, MAY 18, 1955

ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 4th May 1955

S.R.O. 1070.—Whereas the election of Ch. Ghasi Ram as a member of the Legislative Assembly of the State of Pepsu, from the Julana constituency has been called in question by an election petition duly presented under Part VI of the Representation of the People Act, 1951 (XLIII of 1951), by Ch. Ram Singh, son of Ch. Kidar Singh, Jat of Village Julana, P.O. Julana, Tahsil Jind, District Sangrur (PEPSU);

And whereas, the Election Tribunal appointed by the Election Commission, in pursuance of the provisions of Section 86 of the said Act, for the trial of the said Election Petition has, in pursuance of the provisions contained in section 103 of the said Act, sent a copy of its Order to the Commission;

Now, therefore, in pursuance of the provisions of section 106 of the said Act, the Election Commission hereby publishes the said Order of the Tribunal.

BEFORE THE ELECTION TRIBUNAL, PATIALA

Nawal Kishore, *Chairman.*

Dalip Singh, *Member.*

Krishna Sahai, *Member.*

ELECTION PETITION NO. 17 OF 1954

Petitioner:—

Ch. Ram Singh, son of Ch. Kidar Singh, Jat of Village Julana, P.O. Julana, Tahsil Jind, District Sangrur (Pepsu).

Versus

Respondents:—

1. Ch. Ghasi Ram, son of Ch. Sheo Nath, Jat of village Julana, Tahsil Jind, District Sangrur.
2. Ch. Jai Singh, son of Ch. Harchand Singh, Jat of village Zafargarh, Advocate, Jind.
3. Bhagwana, son of Khem Chand, Jat of village Ram Kali, Tahsil Jind, P.O. Julana.
4. Partap Singh, son of Behari Lal, Jat of village Behbalpur, P.O. Jind, Tahsil Jind, District Sangrur.
5. L. Kishan Lal, son of Shiv Sarup of village Julana.
6. Chander Singh, son of Net Ram, Jat of village Julana.
7. Sat Narain, Vakil Jind.
8. Ch. Chander Bhan, son of Shiv Dhian Mal, Advocate, Jind.

ORDER DELIVERED ON 22ND APRIL 1955

This is a petition under Section 81 of the Representation of People Act, 1951 by Ch. Ram Singh, a defeated candidate against the election of the returned candidate Ch. Ghasi Ram to the Legislative Assembly, PEPSU from Julana Constituency.

Facts as set forth in the petition are that for the General Elections held in February, 1954 as many as nine candidates had filed their nomination papers in the Julana Constituency. Respondents 5 to 8 having withdrawn their candidature, only respondents 1 to 4 and the petitioner contested the election, and ultimately Ch. Ghasi Ram, Respondent No. 1 was declared elected and the petitioner was defeated. The petitioner prays that the election of Respondent No. 1 be declared void and further that he be disqualified from contesting future elections on the following allegations:—

- (1) That the list of validly nominated candidates was not published in alphabetical order as provided in rule 10(2) of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1951, hereinafter referred to as the Rules. The ballot box of the petitioner was in consequence placed according to the published list at No. 4; while it should have been at No. 5, that is, the last box in the line. As a result, innumerable illiterate voters cast their votes in the last box, as the petitioner had asked them to do so.
- (2) That Respondent No. 1, his agents, and other persons with his connivance published and circulated widely statement of fact in a poster called "Danke Ki Chot" in relation to the personal character and conduct of the petitioner with a view to prejudice the prospect of the petitioner's election and this statement is false. Further that Respondent No. 1 is also guilty of illegal practice as defined in Section 125(3) of the Representation of the People Act, 1951, inasmuch as the poster did not bear on the face of it the name and address of the printer and publisher.
- (3) That the polling station No. 16 in village Deorar was originally fixed in a 'Chaupal'; while on the day of the polling, the Presiding Officer, without any notice, changed it to the house of one Thambu thus causing disappointment to voters who went to vote in the 'Chaupal' and returned on not finding the polling station there.
- (4) That the return of expenses filed by Respondent No. 1 was false in material particulars as detailed in the annexures.
- (5) That although respondent No. 1 was not given the Congress ticket, he still displayed the Congress flag while touring in the constituency with a view to mislead the voters and improve his chances of success at the election.

The petition is dated 21st of May, 1954 and had only one annexure when filed with the Election Commission, India. Another annexure was filed on 11th of June, 1954. The petition is contested by Respondent No. 1 who in his written statement raises the plea of limitation, the second annexure having been filed beyond the period of limitation. On the merits the respondent contends that the list of valid nominations had been displayed and published to the knowledge of the petitioner long before the elections. In any case the irregularity, if any, had been condoned by the petitioner as no objection was raised at the time of the election. It is averred that the symbols of the candidates were affixed outside the ballot boxes and no mistake was possible. It is denied that the petitioner ever propagated that the box of the petitioner would be placed at No. 5 or last in the line. It is also denied that the Respondent or his agents had got the poster "Danke Ki Chot" published or circulated. In fact the respondent denies any knowledge of the poster. As regards the change of the polling station, to the house of Thambu, it is stated that as the women folk in the village had serious objection to going inside a Chaupal, the Presiding Officer, in consultation with the agents of all the candidates including the agent of the petitioner, changed the polling station. This had not misled any voters nor has the result of the election been materially affected by the change. It is denied that the election expenses are false or that the respondent displayed the Congress flag.

On the pleadings of the parties, the following issues were framed:—

- (1) Whether the petition is time-barred and should it be rejected as one of the lists of particulars of corrupt and illegal practices was filed after the expiry of the period of limitation for filing the election petitions? O.R.
- (2) Whether the result of the election was materially affected because the list of valid nominations was not prepared in alphabetical order according to rule 10 sub-rule (2) prepared under the R.P. Act and the petitioner's ballot box was placed at No. 4 instead of No. 5 and some of his voters cast their votes in the last box? O.P.
- (3) Whether there was no possibility of a mistake on the part of the electors on account of reasons mentioned in issue No. 2, as symbol of the petitioner was affixed on the outer portion of the ballot box placed at No. 4? O.R.
- (4) Whether the petitioner raised no objection before the Presiding and Polling Officer and in fact condoned the mistake referred to in issue No. 2, if so, what is its effect? O.R.
- (5) Whether respondent No. 1 and his agents with his connivance published and widely circulated poster 'Danke ki Chot' which contained false allegations regarding personal character and conduct of the petitioner in order to prejudice his prospects and are, therefore, guilty of illegal practice? O.P.
- (6) Whether a change of the polling station No. 16 from Chaupal to the house of Thambu was made without notice to the petitioner and has materially affected the result of election on account of the voters having been misled? O.P.
- (7) Whether the return of election expenses filed by Respondent No. 1 was false in material particulars? O.P.
- (8) Whether respondent No. 1 displayed the tri-colour flag in order to mislead the voters, though Congress ticket had not been given to him and had fought the election independently? O.P.
- (9) (a) Whether the annexure dated 11th June 1954, relating to illegal practices should not be taken into consideration because it was not filed with the petitioner? O.R.
- (b) If the finding is in favour of the petitioner, are the facts contained in the afore-mentioned annexure true and correct and was the result of the election materially affected on account of them? O.P.
- (10) To what relief is the petitioner entitled.

Issue No. 1.—The petition itself was filed within time and was accompanied by one annexure only. Particulars of the alleged false return of election expenses had not been filed along with the petition. The Election Commission, India invited the attention of the petitioner and on 11th June 1954, after the period of limitation, the second annexure was filed. The learned counsel for the respondent has however not pressed the issue and it is decided in the negative.

Issues No. 2, 3 and 4.—It is convenient to deal with issues No. 2, 3 and 4 together. The petitioner had contested the election on a Congress ticket. He filed his nomination paper on 9th January 1954. The date of scrutiny was January 13, 1954 when the petitioner admits that he was present in the office of the Returning Officer. Respondents No. 5 to 8 withdrew their candidature and on 16th January 1954 the Returning Officer displayed a list of validly nominated candidates on the notice-board of his office containing five names in all. The petitioner's name was fourth on this list; while alphabetically, it is stated, it should have been in the last. It is urged that this was a breach of rule 10(2) of the Rules. Further it was stated that as the ballot boxes are placed in accordance with the list the petitioner's box also was placed fourth in the line at the polling stations.

In his statement the petitioner has deposed that he had adopted a method of canvassing illiterate voters by asking them to cast their votes for him in the last box in the line of boxes in the polling stations. The placing of the ballot boxes in the wrong order had resulted in his losing a large number of votes which the illiterate voters had cast in the last box in the line.

It is admitted that the petitioner's name was fourth on the list of validly nominated candidates and that his ballot box was also at No. 4. No attempt was made to examine the Returning Officer to explain in what circumstances the list came to be prepared in this way. We shall however consider whether the placing of the ballot box has in any way prejudiced the election of the petitioner.

The petitioner admits in paragraph 5 of the petition that the list Ex. P6 filed by him had been displayed on the notice board of the Returning Officer. Infact he brought the list Ex. P6 from the notice board, but he says he did so only after the elections were over. He says that he did not see the notice board till after the elections. Under Rule 11 of the Rules this list is published in the official Gazette also. The petitioner states that he did not read the Gazette and had in no other way come to know the order in which the names had actually been published. He however went about canvassing votes as he has stated, that is, asking voters to cast their votes in the last box in the line. In support of his statement the petitioner has produced Kewal Singh P.W. 27 who states that he was told by the petitioner that his box would be placed at No. 5. He however admits that he had also been told of the petitioner's symbol. Then he goes on to say that he could not see the symbol inside the booth and cast his vote in the last box. The only other witness who talks about this is P.W. 12 Risal Singh who in cross-examination says that the petitioner had asked for votes on the ground that he had stood on a Congress ticket and had given his symbol as "Two bulls with a yoke on" and had also said that his box would be at No. 5.

This method of asking for votes is indeed novel for any candidate. It is more so for a candidate who has a symbol reserved for him. The very purpose of allotting symbols is to make the voting easy for the illiterate voters. The symbol of the Congress is a very well known symbol and it does not stand to reason that the place of the ballot box and not the symbol would be proclaimed to the voters. The petitioner's witnesses P.Ws. 12 and 27 have in fact stated that they were told about the symbol also. There is no other evidence to show that any voter was misled into casting his vote in the wrong box.

It is contended on behalf of the respondents that the petitioner had raised no objection at the time of the election and the allegations regarding the position of the ballot boxes is only an after-thought and that no mistake was possible as the symbols were clearly visible. A person may forget the serial number of the ballot box but it is not easy to forget a symbol. It is further pointed out that the Respondent had secured 7,880 votes as against 4,778 votes of the petitioner. Partap Singh who had his ballot box at No. 5 secured 2,293 votes. It is argued that even if all the 2,293 votes cast in box at No. 5 are counted in favour of the petitioner, even then the petitioner could not win. We consider that there is force in these contentions. We, therefore, find that the evidence produced on behalf of the petitioner is wholly inadequate to prove that the order of the ballot boxes in the polling stations made any difference or that the result of the election was in any way materially affected.

Issue No. 5.—A printed poster in Hindi with a heading "Danke ki Chot" is on the record and is Ex. P1. It purports to warn the Harijan voters to beware of the petitioner who had, on two previous occasions, given decisions regarding two disputes one in the matter of the abduction of a chamar woman and the other in respect of a chaupal which the Dhanaks (Harijans) wanted to construct. It further adds that if the Harijans voted for Ch. Ram Singh he would, when in power, decide matters in the way he had done on the two previous occasions. The voters were, therefore, asked to vote for a worthy candidate irrespective of the Congress ticket given to Ch. Ram Singh.

The allegations of the petitioner regarding this poster are two fold:—

- (a) That the poster does not bear the name of the printer and publisher on the face of it and this is an illegal practice in itself under Section 125(3) of the R.P. Act, 1951.
- (b) That the respondent is guilty of major corrupt practice under Section 123(5) because he published a statement of fact which is false in relation to the personal character or conduct of the petitioner.

It is evident from a perusal of the poster that it does have a reference to the election and does not bear on its face the name and address of the printer and publisher. But the question is who had issued it. It is for the petitioner to prove that it was issued by the respondent or his agents. For the consideration of the second allegation also the petitioner has to establish that the respondent is responsible for the publication of the poster. Much argument has been advanced as to the meaning of the words "Statement of Fact" and "personal character" in Section 123(5) but this will arise only if we come to a finding that the Respondent is responsible for the publication of the poster.

The question for determination, therefore, is whether the respondent has printed and published the poster. The petitioner himself says nothing whatsoever in his long statement how the poster came into existence. P.W. 9 Dewan Singh says that it was he who had got these posters printed at the bidding of Ch. Ghasi Ram, Respondent No. 1. He says that he wrote it at the dictation of Ch. Ghasi Ram. He took the manuscript to Rohtas Press in Rohtak and according to him, he got printed 1,000 posters only and paid Rs. 10 for printing them. It is in evidence that Dewan Singh had worked for sometime for the Respondent and was also appointed his polling agent for Deorar Polling Station. His statement on the point, therefore, would be of great importance but the respondent has explained in his statement how Dewan Singh has come to make this statement. Ch. Ghasi Ram, Respondent says that he had appointed two polling agents for Deorar Polling Station, Dewan Singh was one and the other was Prehlad Rai Singal. He sent letters of appointment of these polling agents to the Returning Officer but in the meantime he came to know that Dewan Singh had joined hands with the petitioner, so he refrained from giving the duplicate letter of appointment to Dewan Singh. He, however, gave the letter to Prehlad Rai who acted as his polling agent and Dewan Singh was not allowed to act as such. The fact that Dewan Singh did not act as the polling agent of the respondent is amply proved by documentary evidence on the record which will be considered presently.

Now rule 12 of the Rules provides that letters of appointment of each polling agent should be written in duplicate. One copy of this letter has to be sent to the Returning Officer as notice of the appointment. The duplicate copy has to be handed over to the polling agent ".....who shall on the date fixed for the poll present the copy to, and sign the declaration contained therein, before the Presiding Officer of the Polling Station or the Returning Officer presiding over the place fixed under sub-section (1) of Section 29 for the poll, when such polling agent is appointed for duty, and the Presiding Officer or the Returning Officer, as the case may be, shall thereafter retain it in his custody, and no polling agent shall be allowed to perform any duty at the polling station or at the place fixed for the poll unless he has complied with the provisions of this sub-rule"—rule 12(3).

The sealed envelope containing the duplicate letters has been summoned from the Returning Officer. This envelope which is Ex. RW 2/1 contains the duplicate copy presented by Prehlad Rai Singal to the Polling Officer in proof of his having worked as the polling agent, but Dewan Singh's duplicate letter of appointment is not in the envelope. The conclusion is that Dewan Singh did not act as the polling agent of Respondent No. 1 at Deorar. This lends support to the statement of the respondent that Dewan Singh had gone over to the side of the petitioner and, therefore, he did not give him the duplicate of the letter of appointment.

There is yet another circumstance which is worthy of note at this juncture. R.W. 12 Shri Chander Bhan, Advocate, states that on the 22nd of October, 1954 at Jind Dewan Singh in company with the petitioner, had gone to the Bar-Association rooms to get an affidavit attested. The attestation of this affidavit is proved by R.W. 4, Shri Shamsher Jang, Pleader, Oaths Commissioner. Entry in his register with regard to the attestation is at No. 596 and from a note in the register he stated that the affidavit related to the election of Ch. Ghasi Ram and it was affirmed by the deponent that he and Tale Ram had done propaganda work for Ch. Ghasi Ram. Dewan Singh P.W. 9 himself admits in his cross-examination that the petitioner had got his statement attested before an Oaths Commissioner at Jind and that the statement was with the petitioner. He admits that this was after the result of the election. Under such circumstances it is not possible to place any reliance on the statement of Dewan Singh. The respondent's learned counsel points out that the fact that Dewan Singh had gone to Rohtas Press and had got the posters printed had not been established by any independent evidence. The Proprietor and the Manager of the Press have been produced by the petitioner to prove that Dewan Singh had got the posters printed. The Proprietor Ram Narain P.W. 7 has proved from the entry in his register that the order for printing the poster was placed on 2nd of February 1954 by "Julana Chamaran" that is, some Chamars from Julana. Printing was done the same day and 2,000 and not 1,000 posters, as stated by Dewan Singh, were printed. He has also brought a manuscript which Dewan Singh states was in his handwriting. From the cash book he deposes that Rs. 10 were received for printing the posters. Receipt Book Ex. PW 7/6 (which appears to be a cash memo slip book) contains at No. 499 a counter foil of a receipt for Rs. 10. In this receipt it is written at the top "Julana Chamaran, c/o Dewan Singh". From this, the witness concludes that the money must have been paid by Dewan Singh.

He admits that the money was not given to him, but was received by his Manager Mohinder Sen P.W. 32. He does not know Dewan Singh. He had seen him in court and yet he could not say whether it was he who had visited the Press. P.W. 32 Mohinder Sen to whom the money was paid also states that after looking at the counter foil of the receipt at No. 499 he can say that Dewan Singh was one of the persons who had come with the Chamars. He also does not know Dewan Singh nor can he recognise him. The writing as it is in the receipt cannot possibly prove the presence of Dewan Singh in the Press. The respondent's learned counsel has argued that the Press itself is a very ordinary and small Press with no regard to rules of business. It forgot to print the name of the printer and publisher. The books of accounts are not kept properly, the pages are not numbered and the receipt book Ex. PW 7/6 has several blank pages before the receipt in question and also later in the book. The writing on the receipt itself, the respondent contends, may have been tampered with. It is contended that "care of Dewan Singh" was not at all necessary to be written while receiving payment in cash and indeed it was suggested that it had been added afterwards. The original of the counter foil receipt or cash memo is not forthcoming, although Dewan Singh states that he may have got it somewhere. As we are of the view that the receipt Ex. P.W. 7/6, even, as it is, does not prove Dewan Singh's presence at the Press, we consider that it is not necessary to go further into the question of the genuineness of the document.

It has been argued on behalf of the respondent that it was the Chamars of Julana who were aggrieved if what is stated in the poster is true and that possibly the Chamars had got this poster printed and circulated. The respondent was not the only person opposing the petitioner and any one of the other candidates or their agents also may have got the poster printed. It is because the respondent has won the election that the sins of other persons are sought to be fastened on him. It has been argued that to set aside an election is a serious matter in itself and further that to disqualify a person under the provisions of Section 140 is nothing short of disaster because it ruins the political career of a person. Be it as it may, it is the duty of the courts to apply the law to the facts of the case whatever the consequence. We agree that each charge should be specifically pleaded to enable the respondent to meet it and the evidence should be conclusive and worthy of credence. In this case, as we have remarked above, the evidence does not inspire confidence at all. We hold that the petitioner has failed to prove that the respondent or his agents had got the poster printed.

It is argued on behalf of the petitioner that even if it cannot be found that the respondent was responsible for having the poster printed, he had certainly distributed and circulated it and the mere issuing of the poster would be an illegal practice under Section 125(3). A large number of witnesses have deposed that the respondent and his workers had distributed posters like Ex. P1. Equally vehemently the respondent has repelled the allegation. He has also produced a chain of witnesses to prove that he had not distributed the posters. In fact posters like Ex. P1 according to the respondent's witnesses had not been seen in any village at all.

A consideration of evidence on the question leaves a very poor impression on the mind. Witness after witness has come forward to repeat parrot-like the same story, as in some cases answers were given even before questions were put in Examination-in-Chief. A typical example of such a witness is P.W. 13 Ujagar Singh who without any questions being asked of him, repeats that Ch. Ghasi Ram had distributed the poster, he had carried a tri-coloured flag and that a 'Bhajnik' (a person who sings) was with him. Then come a set of witnesses who have brought a copy of the poster without having been summoned with it. They themselves are illiterate and so to establish that it was this poster which had been distributed they produce the poster and also state that they got it read by the boys of their village. What they say the poster contains is most fantastic. Some go even to the length of saying that the poster said that it was Ch. Ram Singh who had abducted the Chamar woman. It is obvious that these witnesses do not know what exactly these posters contain even now. The only other statement which we might consider in passing is that of P.W. 2, Shri Jai Singh, Advocate. He was a candidate in the election and was defeated. He goes all out to support the petitioner. He goes even further than the petitioner himself in so far as he says that the respondent had gone about doing propaganda against the petitioner. It is not till we arrive at the cross-examination that we learn the reason for his enthusiasm. In the General Elections of 1952, Respondent No. 1 had stood on the Congress ticket but was defeated by Ch. Ram Singh, Ex. Revenue Minister. On a petition by the respondent Ghasi Ram, the election of Ch. Ram Singh was set aside and he was disqualified for six years. Now the present witness P.W. 2 is the brother of Ch. Ram Singh Ex-Revenue Minister. We cannot, therefore, regard

him as a dis-interested witness and are unable to place any reliance on his statement. Great stress has been laid on behalf of the petitioner on the fact that Dewan Singh was an agent of the respondent and he admits that he also distributed the posters. It is argued by the learned counsel for the petitioner that agency in Election Law is not the relationship of principal and agent but is more akin to the relationship of master and servant. For this proposition the learned counsel has relied upon 3, E.L.R. 197. We have no hesitation in accepting the view expressed in that case. But the facts of that case are very different from the facts of the present case. There was, in that case, no doubt that Ahmad Jan had conveyed voters to the polling booth obviously for the respondent whose symbol the bus carried. We have discussed the evidence on the point in this case, especially the statement of Dewan Singh and we find that the poster which he states he had distributed does not necessarily show that they were being distributed on behalf of the respondent. We accordingly hold that it is not proved that respondent No. 1 or his agents had distributed posters like Ex. P1.

Issue No. 6.—We have it in the evidence of the petitioner's witness, Shri Jai Singh, Advocate, P.W. 2 that the distance between the Chaupal and Thambu's house to which the polling had been shifted is only 25 yards. The respondent has given a reason for the change. He says that the women-folk of the village had objection to going inside a Chaupal which is a meeting place of men only. This was represented to the Presiding Officer by the voters and the agents of the candidates and the Presiding Officer, in consultation with the agents, including the agent of the petitioner, shifted the polling station. Whether we believe the suggestion about the objection by the women-folk or not, it does not appear to us a matter of any consequence whatsoever. The distance between the two places is so short that it is not possible to conceive that any voter could have difficulty in finding the polling station. No evidence on the point was produced and we consider none was possible. Attempt was therefore made to set up a new case at a late stage that there was enmity between some voters and Thambu and the voters did not go to his house. This is not the petitioner's case in the petition and we are not prepared to accept the meagre evidence on the point as true. In the matter of polling at the elections under the supervision of officials it is impossible to believe that such an objection would have been raised by any one. We hold that the change of polling station had no effect on the result of the election at all.

Issue No. 7.—The return of expenses filed by respondent No. 1 is on the record and is Ex. PW 5/3. It is evident that the cost of petrol has been shown in the return. The learned counsel has, therefore, given up the case with regard to these items. The other two items of expenditure which, it is alleged, have not been shown in the return, are the sum of Rs. 520 on account of hire for the use of a car and the sum of Rs. 240 alleged to have been paid to one Tale Ram for propaganda work.

To prove the payment of hire the petitioner has produced two witnesses. Dr. Shiv Dhayan Singh P.W. 6 states that he was ill when his partner Ran Singh came to him and asked him to write a receipt for the hire of the car to Ch. Ghasi Ram. He thereupon wrote the receipt Ex. P3. He knows nothing else about the matter except that he had received Rs. 200 as his share of the hire. Ran Singh P.W. 11 states that he had hired out the car to the respondent and he had received the hire-money. The respondent had asked for a receipt and he got it written by his partner P.W. 6. But he says that when he wanted to give the receipt to Ch. Ghasi Ram, he told him that he did not need it. It was under these circumstances that Ex. P3 remained with him and he had kept it in his bahi (account book). When, one day, the petitioner happened to be sitting at his shop, the receipt fell from the Bahi and the petitioner took it away as he said he had some use for it. This witness also states that one of the supporters of the respondent who went in the car with him was Tale Ram. Although Tale Ram used to go in the car with him, he does not recognise him in court. The receipt Ex. P2 executed by Tale Ram for the alleged payment of Rs. 240 by Ch. Ghasi Ram was also in possession of this witness Ran Singh. He states that the respondent told him that he had forgotten to take a receipt from Tale Ram who had gone to the station. The respondent asked him to go to the station and bring a receipt from Tale Ram. He went to the station and procured Ex. P2. This receipt also remained with him as Ch. Ghasi Ram did not take it from him. Now Tale Ram has come into the witness-box on behalf of the petitioner and has given a lie to the petitioner's case. He says he never went out with the respondent to do any propaganda nor had he received any money from him. He admits the execution of the receipt Ex. P2 for Rs. 240 but says that one Bhagwaha, of Sheopur and one other person had gone to his house and induced him to write Ex. P2 and assured him that it would do him no harm; while it will be of great use to him. The petitioner made no attempt to declare him hostile and cross-examine him. The statement of Tale

Ram seals the fate of the petitioner's case not only on this point, but it also makes it impossible for us to believe the large number of witnesses who have deposed to the fact that Talc Ram used to accompany the respondent.

It is urged on behalf of the respondent that the expenses shown in his return of election expenses are far below the maximum scales fixed and there could therefore be no motive in concealing these items if actually the payment had been made. This may or may not be so but on the evidence we cannot hold that payment of these two items has been proved. We hold that the return of election expenses filed by the respondent is not false.

Issue No. 8.—It is alleged that respondent No. 1 had displayed a Congress flag while touring in the constituency. It is alleged that he did so to deceive the voters and to minimise the chances of the petitioner's victory and to improve his chances in the election. The learned counsel for the petitioner has not argued this issue with any great zeal. There is nothing in law to prevent another person from displaying a Congress flag. No witness has appeared before us to say that he was deceived in any way. In fact it is suggested that such a display would injure the cause of the respondent himself because some of his supporters might be misled into voting for the Congress.

Issue No. 9(a) and (b).—Because the issue of limitation was not pressed, we have considered the annexure, dated 11th June 1954 in dealing with issue No. 7. No separate finding is, therefore, called for.

The petitioner is not entitled to any relief.

The petition fails and is dismissed with costs to respondent No. 1 only. We assess the costs at Rs. 350.

(Sd.) NAWAL KISHORE, *Chairman.*

(Sd.) KRISHNA SAHAI, *Member.*

(Sd.) DALIP SINGH, *Member.*

The 22nd April 1954.

[No. 82/17/54/5507.]

By Order,

K. S. RAJAGOPALAN, *Asstt. Secy.*